Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION

By:

Kathleen Abernathy
Chief Legal Officer and EVP of
Regulatory and Government Affairs

Ken Mason
Vice President
Government and Regulatory Affairs

Michael D. Saperstein, Jr.
Director, Federal Regulatory
2300 N St. NW
Suite 710
Washington, DC. 20037

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SUMMARY

Frontier Communications Corporation ("Frontier") is the largest provider of communications services focused on rural America; accordingly it has a keen interest in the reform of intercarrier compensation ("ICC") and the universal service fund ("USF"). Frontier's interests are uniquely shaped by the hundreds of millions of dollars it has committed to deploy broadband to rural America as part of a transaction where it acquired millions of access lines from Verizon. Frontier supports reform of ICC and USF but urges the Commission to modify its proposed plans to ensure that the very carriers that are already meeting the Commission's challenge of deploying broadband to rural America are not disproportionately burdened by these changes.

With respect to ICC reform, Frontier urges the Commission to adopt a five-year timeframe for harmonizing intrastate and interstate rates. Adopting this timeframe has the dual benefits of 1) providing ILECs that rely on ICC revenues to deploy broadband time to adjust their business models for the new rates; and 2) reducing the size of any end-user supported access recovery mechanism. Frontier also urges the Commission not to prejudge what the end-state of ICC reform should be. Instead, Frontier believes the Commission should pause after the first five year transition phase to reevaluate the effect that the rate changes have had on broadband deployment, end users, and the industry. At no point would it be appropriate to go to $0.0007 or below as this rate ignores the fact that there are always transport costs for rural providers.

Frontier supports USF reform but believes that the Commission's reform plans will limit Frontier's future ability to continue to invest in rural broadband if enacted in its current form. In order to assure that does not happen, Frontier urges the Commission to phase down the IAS fund over a five-year period, instead of a two-year period, and also to allow providers to be able to retain IAS support if they certify that the money received is used to deploy broadband. Frontier is also concerned that it could be deprived of the ability to receive explicit broadband support simply because it has publicly committed to deploying broadband in rural America. The Commission did not adequately consider that Frontier's commitment was based on revenue streams that may be altered dramatically with the reform process, so it would be unfair to exclude it based upon circumstances that are no longer valid.

Throughout the reform process the Commission should also take steps to ensure that voice remains a supported service. Any broadband provider that receives funding should also become the carrier of last resort for the area. States are in the best position to determine which carriers should be eligible to receive funding support via their existing eligible telecommunications carrier programs, which should remain in place after the Commission completes its reforms.

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COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION

I. FRONTIER'S INTEREST IN THE REFORM PROCESS STEMS FROM ITS COMMITMENT TO RURAL BROADBAND DEPLOYMENT

Frontier Communications Corporation ("Frontier") hereby submits the following comments in response to the Federal Communications Commission's ("Commission" or "FCC") request for comment on its *Notice of Proposed Rulemaking* addressing reforms of the Universal Service Fund ("USF") and intercarrier compensation ("ICC").[1] These comments supplement the

[1] *In re*: Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up, WC Dkt. Nos. 10-90, 07-135, 05-337, 03-109; GN Dkt. No. 09-51; CC Dkt. Nos. 01-92, 96-45, *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, FCC 11-13 (rel. Feb. 9, 2011) ("*NPRM*").

response Frontier provided to the Commission's expedited inquiry on ICC arbitrage in Section XV of the *NPRM*.[2]

Frontier, which operates a telecommunications network across 27 states, is the largest provider of communications services focused on rural America. Accordingly, Frontier is committed to doing its part to meet the Commission's broadband deployment goals in its territories.[3] Frontier is investing hundreds of millions of dollars to deploy broadband in predominantly rural areas; the areas that the Commission found are most likely to lack service.[4] Frontier is able to make such significant investment in rural broadband thanks to a financial framework that combines sound business decisions, shareholder support, payments from other carriers utilizing our infrastructure (i.e., ICC), and indirectly, USF support.

Frontier's broadband deployment commitments are specific and meaningful: using its revenues to invest in America's future by deploying broadband with download speeds of at least 4 Mbps to 85 percent of the territories it acquired from Verizon (4.8 million access lines across 14 states) by 2015.[5] Frontier's new territories had only 62 percent broadband coverage when

[2] *See* Comments of Frontier Communications Corp., WC Dkt. Nos. 10-90, 07-135, 05-337, 03-109; GN Dkt. No. 09-51; CC Dkt. Nos. 01-92, 96-45 (filed Apr. 1, 2011) ("Frontier Section XV Comments"). The Commission set April 1, 2011, as the deadline for comments specifically related to Section XV of the *NPRM* and April 18, 2011, as the deadline for comments addressing the remainder of the *NPRM*. Comment and Reply Comment Dates Established for Comprehensive Universal Service Fund and Intercarrier Compensation Reform Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, *Public Notice*, DA 11-411 (rel. Mar. 2, 2011).

[3] *In re*: Joint Statement on Broadband, GN Docket No. 10-66, *Joint Statement on Broadband*, 25 FCC Rcd. 3420 (rel. Mar. 16, 2010) ("Every American should have a meaningful opportunity to benefit from the broadband communications era—regardless of geography, race, economic status, disability, residence on tribal land, or degree of digital literacy.") ("*Joint Statement*").

[4] *In re*: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act; A National Broadband Plan for Our Future, GN Docket Nos. 10-159; 09-51, *Sixth Broadband Deployment Report*, FCC 10-129 at ¶ 28 (rel. July 20, 2010) ("*Sixth Broadband Deployment Report*") ("Based on our analysis, we conclude that broadband is not being deployed to all Americans in a reasonable and timely fashion. Our analysis shows . . . approximately 14 to 24 million Americans do not have access to broadband today. [This] group appears to be disproportionately lower-income Americans and Americans who live in rural areas.").

[5] *See in re:* Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control, WC Docket No. 09-95, *Memorandum Opinion and Order*, 25 FCC Rcd. 5972 at

Frontier acquired them, in contrast to a 92 percent broadband deployment rate in Frontier's legacy territory. Frontier's preexisting broadband deployment rate of 92 percent, which it achieved in a less dense area, demonstrates Frontier's past and continued support to broadband deployment. [6]

The reforms that the Commission proposes to undertake in this *NPRM* are of great importance to Frontier as funds received from USF and ICC account for approximately 10 percent of Frontier's total revenues annually—revenues that go towards broadband investment.[7] Frontier supports the Commission's reform efforts to encourage not only universal service support for voice, but also to provide for explicit broadband support to meet America's communications goals. Frontier specifically commends the Commission for considering reforming USF and ICC in lockstep, a process that Frontier and others have supported,[8] and also for considering ways to reduce intercarrier compensation arbitrage on an expedited basis.[9]

While the Commission's goals are laudable, the framework set forth in the *NPRM* will not be sufficient to achieve such goals without modification because it passes a disproportionate share of the burden of reform to rural carriers like Frontier. The Commission states that while broadband is important in urban areas, "the distance-conquering benefits of broadband can be even more important in America's more remote small towns, rural and insular areas, and Tribal

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App. C (rel. May 21, 2010) (*Frontier-Verizon Acquisition Order*). Frontier completed its acquisition from Verizon on July 1, 2010.

[6] *Id.* at ¶ 50.

[7] *See* Frontier Communications Corp., Annual Report (Form 10-K), at 21 (Feb. 25, 2011).

[8] *See, e.g., See, e.g.,* Letter from Michael D. Saperstein, Jr., Frontier Communications, to Marlene H. Dortch, Secretary, FCC, CC Dkt. Nos. 99-68, 01-92, GN Dkt. Nos. 09-51, WC Dkt. Nos. 04-36, 05-337, 07-135 (filed Sept. 2, 2010) ("Because of the complexities involved, Frontier urged the Commission to conduct its Universal Service Fund reform in concert with any changes to intercarrier compensation.") ("Frontier Sept. 2 Ex Parte"). Congress has similarly called on the Commission to address USF and ICC reform concurrently. *NPRM* at ¶ 9 (citing the press statement of Representatives Terry and Boucher).

[9] *See generally* Frontier Section XV Comments.

lands."[10] Frontier's broadband deployment commitments have demonstrated that it agrees with the Commission on this point, yet far too often the practical effects of the proposed reforms—both of USF and ICC —would undercut the Commission's rural broadband deployment goals. As discussed *infra*, many of the proposed reforms particularly damage the companies that are already deploying rural broadband in favor of those that have not done their part when given the opportunity.

In order to meet the Commission's core goals, the following concepts must be kept in mind throughout the reform process of transitioning USF to explicit broadband funding in the Connect America Fund ("CAF") and rationalizing ICC: (1) support broadband deployment to unserved areas; (2) provide ongoing support for high-cost areas or for areas where it is otherwise uneconomical to maintain service; and (3) provide capital support for transitioning legacy switching networks to those capable of handling IP-based traffic. Keeping to these three tenets will ensure that reforms that are intended to be beneficial do not have the unintended consequence of harming communications providers' ability to repay current loans targeted to broadband deployment, which would prevent providers from utilizing such capital sources in the future.

Frontier appreciates the opportunity to provide the following comments on the Commission's proposed reforms. With appropriate modifications the Commission can achieve its core goals for USF and ICC reform and transform two programs designed to meet the goals of the last century into catalysts for American achievement in the 21st century.

II. SUCCESSFUL REFORM OF ICC IS PREDICATED ON SUFFICIENT AND PREDICTIBLE TRANSITION PERIODS

[10] *NPRM* at ¶ 4.

A. The Commission Should Adopt a Gradual Timeline for Phasing Down Intrastate Access Rates to Interstate Rate Levels and Then Assess the Impact

Frontier supports the Commission's efforts to reform ICC, a dated and inefficient system that has created countless opportunities for arbitrage. While Frontier has supported immediate action to end arbitrage schemes such as phantom traffic and traffic pumping, along with determining the appropriate access rates for VoIP traffic,[11] the Commission must be careful to ensure that there is a meaningful transition period while access rate structures are reformed. Accordingly, Frontier agrees with the Commission's goal of "creating a framework and transition that is predictable to enable service providers and investors time to react and plan appropriately."[12]

Frontier believes that the National Broadband Plan ("*NBP*")[13] provides a useful framework for including a glide path for carriers that currently depend on revenues derived from access charges. According to the *NBP*, "[t]he first step of the staged reform should move carriers' intrastate terminating switched access rates to interstate terminating switched access rate levels in equal increments over a period of two to four years."[14] Frontier agrees with this plan, but notes that four years is the lower bound of transition time necessary, and that five years would be a preferential timeline for moving from intrastate to interstate rates.

As an initial matter, transitioning intrastate rates to interstate levels over five years would provide a level playing field for support reduction. The five year timeline matches the timeline for USF reform that the *NPRM* sets forth for competitive eligible telecommunications carriers ("CETCs") that have built a business model based on an inefficient use of government funding

[11] *See generally* Frontier Section XV Comments.

[12] *NPRM* at ¶ 490.

[13] FEDERAL COMMC'NS COMM'N, OMNIBUS BROADBAND INITIATIVE, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN, GN Docket No. 09-51 (2010).

[14] *Id.* at 148.

via the Commission's identical support rule.[15] While explicit USF support differs from ICC support, the Commission "recognize[s] that ICC revenues today remain an implicit subsidy for certain carriers."[16] Whether the subsidy is implicit or explicit, the fact remains that subsidies have become an integral part of the revenue stream for these regulated companies. The *NBP* recommended eliminating CETC support over a five-year period even though, as the *NPRM* recognizes, commenters arguing in favor of continuing CETC support "did not provide specific data or analysis sufficient for the Commission to draw any particular conclusion regarding the role of CETC support in advancing universal service."[17] It is fundamentally unjust to wean the most inefficient providers off of support—support that the Commission acknowledges they may not even need—over a five year period, while proposing that the companies that have made explicit broadband commitments and rely on subsidies to provide high cost service to high-cost rural areas do so over a shorter period.

Second, the five-year transition gives states adequate time periods to plan the reduction of intrastate rates to interstate rate levels. Frontier believes that the best course of action to maintain the necessary and proper role of states in the rate-setting process is to encourage the states to reduce their intrastate access rates to interstate levels. Not only is this approach the most legally sound,[18] but it would further allow the states to "account for the unique characteristics of their state and the impact on local consumers in setting a glide path for

[15] *See NPRM* at ¶ 243 for a discussion of the identical support rule. The Commission has concluded that because "high cost support is not based on competitive ETCs' costs, even in unserved areas, competitive ETCs may receive high per-line support amounts even though they potentially could provide affordable service with much less or even no support." *Id.* at ¶ 246.

[16] *Id.* at ¶ 43.

[17] *NPRM* at ¶ 245.

[18] Frontier supports allowing the states to reform their intrastate rates themselves as the most efficient method of moving forward with reform in a timely manner. Accordingly, Frontier supports the Commission's belief that reform based on the existing jurisdictional framework—both that of the Commission and that of the states—would "focus on the areas where the courts have made clear are within the Commission's jurisdiction [and therefore] minimized the risk of litigation and disputes, providing greater stability regarding reform." *Id.* at ¶ 537.

reform."[19] Many states have already enacted such reform, but those that have not may need an extended period of time to devise the appropriate mechanism in their state to create this transition. States have rebalanced their rates via a number of mechanisms, some legislative[20] and some through the regulatory process.[21] The Commission is well aware that complicated proceedings can take time to complete and it should allow those states that have already committed to reforming their intrastate mechanisms via active proceedings[22] to complete them, and also allow states that have not yet done so the ability to undertake these reforms over the realistic timeframe of five years.

The *NBP* goes on to suggest that access rates should be phased out over a ten year period from the beginning of the transition.[23] While Frontier believes that a ten-year total transition time is appropriate, it does not support the finding at this time that access charges should be completely eliminated. Frontier continues to believe[24] that the best course of action for the Commission after the reduction of intrastate access rates to interstate levels is to pause and evaluate the effect that the changes have had. In performing this evaluation the Commission should assess:

- The impact that the rate changes have had on carriers affected by the reductions and their ability to continue to provide quality voice service and deploy broadband;

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[19] *Id.* at ¶ 542.

[20] Tennessee, for example, enacted legislation a mere six days before the date of these comments, lowering intrastate rates to interstate rate levels. Uniform Access, Competition, and Consumer Fairness Act of 2011, SB 598, TENN. CODE ANN. §65-5-301 (2011).

[21] The Commission notes that numerous states have undergone rate harmonization through their respective public utilities commission. *See NPRM* at ¶¶ 543-44.

[22] *See, e.g.*, *In re:* The Review and Possible Revision of Arizona Universal Service Fund Rules, Article 12 of the Arizona Administrative Code, AZ Corp. Comm'n, Dkt. No. RT-00000H-97-0137.

[23] *NBP* at 148. The Plan calls for rates to be phased out by 2020, which was ten years from the date it was issued. If the intrastate rates were reduced to interstate levels over a five year timeframe the remaining access rates would be phased down over an additional five years.

[24] Frontier Sept. 2 Ex Parte.

- The impact that the rate changes have had on end users;
- The extent to which carriers have converted their networks to those capable of carrying IP-based traffic as a result of rate changes;
- The effect that further changes would have on each of the areas above;
- The effect that further changes would have on appropriately targeting universal service funding.

The re-evaluation of the appropriate end rate is essential, because while rates can be adjusted downwards, it is much more difficult to increase the rates.

It is important to note that the Commission appears to view voice based on IP networks, and voice as an application over broadband networks, as synonymous when in fact they are not.[25] A network can be IP-based without utilizing a broadband network by implementing soft switches and routers—no actual broadband is required and the call does not function as an application. This is an important distinction because part of the Commission's goal in intercarrier compensation reform is to incent providers to provide voice services over more efficient IP-based networks—which creates confusion when also discussing pure broadband networks.[26]

While the Commission may have the goal of incenting providers to deploy soft switches, it does so in a perverse way: taking away revenues to make IP-based switching more efficient, yet taking no account of the fact that the transition to soft switches and routers requires a significant capital investment. In fact, not only does the Commission not account for the capital

[25] *Compare NPRM* at ¶ 26 ("[W]e propose to clarify that voice service can be provided by any technology, including VoIP, so that USF can be used to directly support modern IP-based networks.") *with id.* at ¶ 30 ("The CAF would provide ongoing support to maintain and advance broadband across the country in areas that are uneconomic to serve absent such support, with voice service ultimately provided as an application over broadband networks.").

[26] *See, e.g., id.* at ¶ 398 ("In the second stage of our comprehensive reform package, we propose to provide all funding through the Connect America Fund, which will provide ongoing support to enable Americans to access robust, affordable IP-based networks that are capable of providing both high-quality voice service and broadband Internet access service."). An IP-based network is not synonymous with broadband Internet access service.

investment involved with this transition, it removes subsidies that would support investing in these technologies. The transition to soft switches is happening organically as switches are replaced, but the Commission cannot expect carriers to bear the capital expenses involved with such a transition, while at the same time the Commission is eliminating support to these same carriers. The five-year transition period of lowering intrastate rates to interstate levels would allow carriers to recoup the capital needed for this investment, though even with this transition period additional explicit support may be necessary to fully implement IP-based networks.

Once the transition from intrastate to interstate rates is completed, if the Commission then decides that it is appropriate to continue to lower access rates further, it should not set a complete phase-out of access charges as the end point, nor should the rate be an arbitrary number such as \$0.0007 as has been proposed even for IP-switched calls.[27] Instead, the rates should be reduced to the cost of transport because there will always be costs involved with originating and terminating traffic that must be recouped and that cannot be borne entirely by the end user. As NECA has stated in this proceeding: "costs of transport and termination do vary widely among carriers. In fact, for most rural companies a \$0.0007 rate would not be sufficient even to cover costs incurred to bill minutes of use. And, while Verizon and other carriers may have entered into agreements establishing rates at or below \$0.0007 per minute, this hardly constitutes 'substantial evidence' \$0.0007 per minute is just and reasonable for all."[28] The Commission must bear in mind the true costs of network operation, which even when reduced through IP efficiencies does not reach \$0.0007, in order to avoid wringing operation-sustaining revenues out of the system.

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[27] *See, e.g., id.* at ¶ 616.

[28] Letter from Richard A. Askoff, Executive Director—Regulatory, NECA, to Marlene H. Dortch, Secretary, FCC, CC Dkt. No. 01-92 at 2 (filed Oct. 6, 2008).

B. A Longer Transition Period Will Reduce the Need for an Access Recovery Mechanism

Though Frontier supports the concept of intercarrier compensation reform, an access replacement mechanism will be necessary for Frontier and companies like it that will lose significant revenues as a result of reform. The *NPRM* envisions that carriers will recover the bulk of their revenues from increases on end users, but it also states that "[d]uring the transition period to long-term CAF reform, any universal service support associated with intercarrier compensation reform would also derive from" IAS reductions and CETC support reductions.[29] As will be discussed *infra*,[30] IAS funding is currently the largest component of Frontier's USF support, so recouping based upon this funding is illogical to support Frontier's access recovery needs. If the Commission insists upon this course of action then the replacement burden will necessarily be borne disproportionately by end users.

The *NPRM* contemplates end-user ICC revenue recovery could come in the form of local rate benchmarks, subscriber line charge ("SLC") increases, or a combination of both. Frontier believes that increases in both categories will be necessary to offset deficient revenues and allow Frontier to continue its current levels of broadband deployment investments. Under the benchmark approach, "the benchmarked rate is imputed to the carrier for purposes of determining support, but carriers typically are not required to raise their rates to the benchmark level."[31] Frontier supports this position. While the benchmark will enable Frontier to recover increased revenues in areas with artificially low rates, Frontier may not be able to do so in all areas because of competitive constraints; these same competitive constraints similarly limit the ability to increase SLCs in some areas.

[29] *NRPM* at ¶ 559.

[30] *See infra* Section III A.

[31] *NPRM* at ¶573 n.855.

Because of the competitive considerations involved with raising end user rates, and recognizing that a large immediate end user increase may cause even further attrition of access lines and exacerbate revenue loss, Frontier supports a gradual increase in both the benchmark and SLC in order to offset declining ICC revenues. Frontier believes that end user increases should be limited to $0.75-$1.00 per year over the length of the transition. These increases would effectively shift necessary access recovery to the end user over a gradual timeframe.

Frontier notes that if the interexchange carriers ("IXCs")—one of the primary beneficiaries of ICC reform and lower access rates—were to correspondingly reduce their rates on the wholesale and resale side, then the total impact on end-users should be minimal. The *NPRM* asks whether it is "appropriate for the Commission to consider the degree to which cost savings are or should be passed through [from long distance providers] when determining the necessary amount of revenue recovery."[32] Frontier believes that this calculation should be an integral part of the Commission's proceeding in order to avoid granting windfall expense reductions to IXCs while demanding that local exchange carriers absorb large losses in revenues. The Commission should expect commensurate IXC rate reductions in association with any access rate reductions it undertakes.

The various pieces of the access recovery mechanism may have unexpected outcomes and unintended consequences when enacted. For example, the Commission may discover that more or less end user support is necessary or that more or less explicit CAF support is necessary in order to provide adequate revenue recoveries. These unpredictable factors further point towards the Commission pausing to reassess its direction at the end of a five year period to reduce intrastate access charges to interstate rate levels.

[32] *Id.* at ¶ 571.

III. UNIVERSAL SERVICE FUND REFORM SHOULD PROVIDE TRANSITIONS THAT ALLOW CARRIERS TO SERVE CUSTOMER NEEDS WHILE TRANSFORMING TO A BROADBAND FUTURE

A. The Phase I CAF's Design Will Actually Limit Broadband Deployment by Undercutting IAS Carriers Ability to Deploy Broadband

The Commission should not proceed with its proposed two-year elimination of IAS in order to fund its Phase I CAF project.[33] As mentioned, IAS is currently Frontier's primary source of USF support, accounting for approximately 60 percent of Frontier's total high-cost funding, and providing four times as much support as any other high cost funding mechanism. To cut this funding so quickly would disproportionately affect Frontier's ability to continue its track record of broadband deployments.

The *NPRM* proposes to fund the Phase I CAF by recapturing support saved by eliminating IAS over a two year period and through phasing down non-IAS funding to CETCs over a five year period. As noted above, Frontier is investing heavily to deploy broadband with download speeds of at least 4 Mbps to 85 percent of its newly-acquired territory and relies on IAS support to help fund these investments. To phase out Frontier's support over two years in the face of such broadband commitments, while transitioning CETCs over five years, would undermine the very deployments the Commission strives to promote. At a minimum, IAS support should be phased down over the same five year period used for the phase down of CETC support.

The Commission recognizes that "[c]arriers receiving IAS today are not required to use such funding to deploy broadband-capable networks; however, in some instances it may be a

[33] *Id.* at ¶ 234 ("Specifically, we seek comment on whether the IAS funding level for incumbent carriers adopted in the *Interim Cap Order* should be capped in 2012 at 50 percent of the 2011 IAS cap amount and then eliminated in 2013 or whether it should be transitioned to the CAF more gradually to help further minimize disruption to service providers.").

significant source of revenue for carriers that have ongoing broadband deployment plans."[34] Frontier can attest to both elements of this statement. The IAS funding it currently receives in its new territories is the same support that Verizon formerly received in these states, yet the broadband deployment rate in rural areas remained low. After the purchase Frontier is using the same funds to deploy broadband in those rural territories. For example, Frontier recently issued press statements noting that since acquiring the new properties on July 1, 2010, it has spent:

- $14 million to deploy broadband to 15,000 households in Wisconsin;[35]
- $10 million to deploy broadband to nearly 60,000 households in Michigan;[36]
- $2 million to deploy broadband to 37,400 households in South Carolina;[37]
- $8.8 million to deploy broadband to 37,985 households in West Virginia;[38]
- $5.5 million to deploy broadband to an additional 14,300 homes in Oregon;[39]
- $5.2 million to deploy broadband to an additional 14,100 homes in Washington.[40]

The $45.5 million in investments noted above is only a fraction of the Frontier's total investment in broadband since the acquisition of the Verizon territories. These deployments would not be possible without revenues gained from its IAS support.

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[34] *Id.* at ¶ 238.

[35] Press Release, Frontier Communications Corp., Frontier Invests $14 Million to Increase Broadband Availability and Enhance Internet Speeds in Wisconsin (Mar. 3, 2011).

[36] Press Release, Frontier Communications Corp., Frontier Invests More Than $10 Million to Increase Broadband Availability and Enhance Internet Speeds in Michigan (Feb. 17, 2011).

[37] Press Release, Frontier Communications Corp., Broadband Availability in South Carolina Leaps Forward With Frontier's $2 Million Investment in Recent Months (Feb. 2, 2011).

[38] Press Release, Frontier Communications Corp., Broadband Availability Leaps Ahead in West Virginia with Frontier's Multi-Million-Dollar Investment During 2010 (Feb. 14, 2011).

[39] Press Release, Frontier Communications Corp., Frontier Invests $5.5 Million to Increase Broadband Availability and Enhance Internet Speeds in Oregon (Apr. 14, 2011).

[40] Press Release, Frontier Communications Corp., Frontier Invests $5.2 Million to Increase Broadband Availability and Enhance Internet Speeds in Washington (Apr. 14, 2011).

In order to avoid undercutting the very companies that are deploying broadband today based in part on IAS revenues, Frontier submits an alternative proposal to ensure IAS funds are put to their most effective use. Frontier recommends that IAS be phased down over the same five-year transition period as CETCs receive for high cost support under the identical support rule,[41] **so long as the IAS recipient is using the support to deploy broadband**. In order to continue to receive IAS support during the entire five-year phase down, IAS-recipients should certify that the funds received are used for the purpose of broadband deployment. In the case where a carrier refused to provide such certification, then the IAS support would be removed immediately. This step would help the Commission reach its Phase I goal of "a fast-track program in CAF for providers to receive targeted funding for new broadband construction in unserved areas:"[42] either the IAS funds would directly support such deployments or they would be repurposed towards those uses by the Phase I auction-winners that have committed to broadband deployment. This method has the added benefit of ensuring broadband deployment—the entire purpose of the CAF—while providing a far more just outcome of not undermining deployments that are ongoing.

B. Companies That Have Made Broadband Deployment Commitments Should Not Be Excluded from Receiving CAF Support for Those Areas of Commitment

As the Commission determines which carriers will be eligible for CAF support—support designed to further broadband deployment—it must not undermine those companies that have explicitly committed to carrying out the Commission's broadband deployment goals by making deployment commitments. The conclusion in the *NPRM* that "[t]he goal of the first phase of the CAF is to increase broadband deployment in unserved rural and high-cost areas, not to fund

[41] *NPRM* at ¶ 242.

[42] *Id.* at ¶ 261 (quoting the *NBP* at 144).

existing facilities or deployment to which a carrier has already committed to federal or state regulators,"[43] is counter-productive. The Commission's conclusion fails to understand and analyze the funding sources upon which a carrier may have relied at the time that it made the commitments referred to.

The *NPRM* specifically recognizes that Frontier, in connection with its acquisition of rural lines from Verizon, "has committed to significantly extend broadband availability in its service areas."[44] Yet the reward for Frontier's commitment to the Commission's goal of rural broadband deployment is that not only will Frontier be excluded from receiving support for deploying broadband across these rural areas, but it will have significant sources of revenues that Frontier originally used to calculate its ability to deploy broadband to these areas eliminated by the Commission's USF and ICC reform proposals. As discussed *supra*, the Commission proposes to phase out IAS, which is by far Frontier's largest form of current USF support, over two years—a far more rapid transition than it contemplates for any other USF high cost fund. Further, the Commission proposes to significantly decrease ICC access charges—Frontier's other largest source of regulated revenues—concurrently with the IAS reduction. While Frontier understands the need to reform both of these elements as part of the larger USF and ICC reform, these reforms were not contemplated when Frontier made its commitments to the Commission in 2010. Denying support for these broadband deployments, while simultaneously removing the funding that Frontier relied upon for these deployments, will require Frontier to reevaluate its ability to fulfill its deployment commitments.

This proposal has the perverse effect of rewarding the carriers that shifted their subsidies intended to maintain and advance services in rural areas for use in urban areas. As of May 2010

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[43] *Id.* at ¶ 308.

[44] *Id.*

in its legacy territory Frontier had deployed broadband to 92 percent of its legacy territory: a territory which had an average density of only 17 access lines per square mile.[45] The Verizon territories that Frontier acquired had a significantly higher density of 35 access lines per square mile, yet Verizon had deployed broadband to only 62 percent of this territory.[46] In just six months Frontier was able to deploy broadband to 240,000 new households in its acquired territory[47] because it chose to commit the support associated with those areas to broadband deployment. Verizon had received the same support for these areas, but chose not to make the capital commitment necessary to deploy broadband to rural areas. Yet, ironically, had Verizon not sold these rural lines to Frontier, under the *NPRM*'s proposed plan Verizon would have been rewarded with CAF support to deploy to these areas because they likely would have been among the most densely populated unserved areas and therefore targeted first for funding under phase one of the CAF[48]—simply because it chose not to invest in them earlier.

Many of the nation's largest broadband providers have a history of avoiding broadband deployments in their rural territories, even in the more populated rural areas, in favor of concentrating investment on more lucrative urban areas.[49] While such business decisions are understandable, these companies should not be rewarded for failing to deploy broadband in rural

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[45] *Frontier-Verizon Acquisition Order* at 22.

[46] *Id.* at 21-22.

[47] Press Release, Frontier Communications Corp., Frontier Communications Reports 2010 Fourth Quarter and Full Year Results (Feb. 23, 2011).

[48] *NPRM* at ¶ 24 ("To spur immediate new broadband investment through the CAF, we propose to conduct a competitive bidding process. . . in which providers seeking a one-time infusion of support to build out and operate broadband networks in unserved areas. . . by bidding for the lowest amount of support they would require to provide service to unserved housing units."). It is logical that in order to get the most "bang for the buck" the Commission would target funding towards those unserved areas that, if served, would provide the most households broadband.

[49] *See, e.g.*, Michael S. Rosenwald, Bypassing the Big Guys to Get Broadband, Wash Post, Mar. 14, 2011 *available at* http://www.washingtonpost.com/local/bypassing-the-big-guys-to-get-broadband-/2011/03/10/ABOESEV_story.html ("Conlin delivers broadband to Fauquier County homes bypassed by Comcast and Verizon . . . . Fauquier might be 45 miles from the White House, but many residents can't look at WhiteHouse.gov in their homes."). *See also NBP* at 141 ("Today, roughly half of the unserved housing units are located in the territories of the largest price-cap carriers, which include AT&T, Verizon and Qwest . . . .").

America, which is exactly what would happen if the Commission does not change its current proposal that eliminates funding for those who have made rural broadband commitments. Accordingly Frontier urges the Commission to reconsider this element of the *NPRM* and ensure that the CAF does not underfund the carriers that have demonstrated an active commitment to meeting the Commission's rural broadband goals.

C. The Commission Should Ensure the Continued Integrity of Voice Services While Providing Explicit Objective-Driven Support for Broadband Deployment to Unserved Areas

i. Voice Services Remain an Essential Service and Currently Applicable Service Standards Must Remain in Effect

The FCC envisions broadband as the communications service of the future, "with voice service ultimately provided as an application over broadband networks."[50] However in the present, stand-alone voice services remain an essential USF-supported service. The *NBP* found that 65 percent of Americans access the Internet at home, though that number was sharply lower in rural areas, in low-income households and amongst minorities.[51] This remaining 35 percent (approximately *80 million* adults) that either do not have access to broadband or have chosen not to adopt it[52] cannot be forgotten in the urge to drive our infrastructure towards a broadband-only model. Indeed, the *Sixth Annual Broadband Deployment Report* found that 14-24 million Americans do not have access to broadband deployments, meaning that 56-66 million Americans have access to broadband, but simply have not chosen to adopt it for any number of reasons.[53] While it is likely that the number of broadband adopters will increase as broadband is deployed to unserved areas, with this the Commission must consider to what extent quality voice services

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[50] *NPRM* at ¶ 30.

[51] *NBP* at 167.

[52] *Id.*

[53] *Sixth Broadband Deployment Report* at ¶ 28.

should be available. Many Americans will continue to prefer and need access to voice services only, and the demand for these services cannot be forgotten moving forward. To the extent that the FCC contemplates voice to be provided as an application over broadband, does it believe that all consumers will be willing to pay broadband prices in order to have voice services? The Commission must consider such supplemental funding between voice service and broadband line costs as part of any ongoing CAF support. Further, the Commission must take into account the overall benefits of the public switched telephone network ("PSTN") that provides access for 911 services, wireless services, and interconnections to other networks. Accordingly, Frontier supports the Commission's proposal to continue to support both voice and broadband services,[54] though the Commission should also consider reassessing broadband adoption at regular intervals to determine what effect adoption has had on the continuing need for standalone voice services.

Frontier supports maintaining the quality of service standards that the Commission currently requires under its rules.[55] In particular, maintaining the requirement that USF recipients provide voice grade access to the public switched network, and its associated quality standards,[56] is essential to ensure that robust voice services continue to be available to the American public. The Commission has previously found "voice grade access to be essential to education, public health, and public safety because it allows consumers to contact essential

[54] *NPRM* at ¶ 80 ("[T]he program must preserve and advance voice service. Even as we refocus USF to support broadband we are committed to ensuring that Americans have access to voice service, while recognizing that over time, such voice service could be provided over broadband networks, both fixed and mobile.").

[55] *Id.* at ¶ 100 ("We propose that recipients continue to be subject to any applicable baseline state or federal requirements for the provision of voice service by ETCs."). *See also id.* at ¶ 95 (citing the current baseline requirements contained in the Commission's rules at 47 C.F.R. § 54.101(a)(1)-(9)).

[56] *Id.* at § 54.101(a)(1) (""Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz.").

services such as schools, health care providers, and public safety providers."[57] Despite advancements in technology, these fundamentals have not changed. The *NPRM* proposes to combine the core voice service functionalities currently required of ETCs into a single term of "voice telephony service,"[58] which Frontier supports as an efficient descriptive mechanism to incorporate into its rules.

It is as important for the Commission to adopt the *NPRM*'s proposal to retain voice telephony as a standalone service as it is for it to retain voice quality standards.[59] As noted above, 56-66 million Americans have not adopted broadband, not withstanding its availability, so it is crucial that the Commission ensure voice offerings remain available going forward. In order to assure the viability of standalone voice, Frontier supports the Commission's proposal to allow CAF recipients providing broadband to partner with voice service providers to provide this standalone service at the necessary levels of quality.[60]

Allowing broadband and voice service providers to partner would meet the statutory requirement that ETCs can "offer the services that are supported by Federal universal service mechanisms under Section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier.)"[61] Section 254(c)(2) authorizes the Joint Board to "from time to time, recommend to the Commission modification in the definition of the services that

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[57] *In re*: Federal State Joint Board on Universal Service, CC Dkt. No. 96-45, *First Report and Order*, 12 FCC Rcd. 8776 at ¶ 63 (rel. May 8, 1997).

[58] *NPRM* at ¶¶ 95-96.

[59] *Id.* at ¶ 99 ("We further propose that recipients be required to offer voice telephony service as a standalone service.).

[60] *Id.* at ¶ 98.

[61] 47 U.S.C. § 214(e)(1)(A).

are supported by Federal universal service support mechanisms."[62] If the Commission finds that it does have the authority to modify the services eligible for support under Section 254(c)(2) then there should be no conflict with Section 214(e)(1)(A). Further, allowing a broadband provider that cannot provide adequate voice services, such as a satellite provider, to partner with a voice provider established as an ETC would provide assurance that quality voice service will be provided.

The Commission seeks comment on its proposal that "recipients be responsible for ensuring compliance with these requirements, regardless of whether they are themselves or their partner is providing the service."[63] While Frontier generally agrees with this premise, it seeks clarification that while the broadband provider and the voice service provider accepting support would be jointly responsible for ensuring sufficient voice service, the voice provider would not be responsible for meeting any broadband quality standards. This is appropriate because in areas where partnering will likely be necessary—those areas too expensive to provide broadband through traditional broadband services—the voice provider will generally have already been providing service at ETC standards while the broadband provider's ability to meet the Commission's broadband standards remains unproven. Holding an established voice provider responsible for the broadband commitments may have a chilling effect on any such partnerships.

In the event that a new broadband provider completely supplants the traditional provider of voice services as the USF recipient in an area, then the Commission should adopt measures, by working with the states, to ensure that the traditional provider is no longer subject to carrier of last resort ("COLR") obligations. Frontier agrees with the comment cited in the *NPRM* that "[i]f a provider is serving an area in which it is not the supported entity, it should be relieved of ETC,

[62] *Id.* at § 254(c)(2).

[63] *NPRM* at ¶ 98.

[COLR] and dominant carrier obligations for voice and broadband in the supported area."[64] The obligations associated with being a COLR become an unfunded mandate if the service provider is no longer a funding recipient. The Commission specifically stated that it wishes to avoid unfunded mandates,[65] so it is essential that the Commission carefully consider incenting the states to remove any such conditions on voice providers that no longer receive universal service funding. Beyond removing any obligations that create unfunded mandates, however, it is also premature for the Commission to consider whether there will "be a need for separate voice and broadband public interest obligations" as "carriers migrate to all-IP networks, and voice is available as an application on such networks."[66]

ii. Broadband Service Characteristics Should Be Crafted to Ensure Accountability, but Be Flexible Enough to Change According to Future Developments

The Commission must set broadband service characteristics and obligations in order to accomplish its goal of "[r]equir[ing] accountability from companies receiving support, to ensure that public investments are used wisely to deliver intended results,"[67] while simultaneously "ensur[ing] universal deployment of modern networks capable of supporting necessary broadband applications."[68] It is similarly important, however, that the Commission maintain adequate flexibility in setting its performance standards in order to avoid setting its requirements too high or too low for a service based upon rapidly-changing technology. Accordingly, Frontier supports the Commission's proposals to "adopt metrics for broadband using specific

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[64] *Id.* at ¶101 n.69 (citing Windstream July 12, 2010 Comments at 16).

[65] *Id.* at ¶ 94 ("We ask commenters to consider and explain whether (and if so how) each of the obligations discussed below should apply under what circumstances, recognizing that it may be appropriate to tailor obligations to avoid creating unfunded mandates.").

[66] *Id.* at ¶102.

[67] *Id.* at ¶ 10.

[68] *Id.* at ¶ 80.

performance characteristics," and its related proposal to "reevaluate the specified metrics on a regular basis to ensure that these metrics remain useful and up-to-date as broadband networks and the applications running over them continue to evolve."[69]

An essential element in the Commission's determination of the required service characteristics will be ensuring that they remain technology neutral. Frontier supports the *NBP*'s recommendation that once the Commission has made a determination that certain characteristics and obligations are necessary to meet the needs of the American public, and a carrier accepts funding to provide these characteristics, it should not matter whether what technology is used to meet them.[70] The possible exception to this rule would be for satellite broadband providers that have partnered with facilities-based voice providers to cover areas that are too expensive to otherwise provide terrestrial-based broadband coverage. The National Broadband Plan contemplates the use of satellite broadband service in these areas, even though they may not be able to meet the standards of terrestrial broadband, in order to maximize broadband coverage and the resources of the Fund.[71] Regarding mobile broadband, however, which views itself as a

[69] *Id.* at ¶103.

[70] *NBP* at 145. A necessary corollary to the principle of technological neutrality is that the regulations for providing service must also be the same. The Commission's rules for "preserving an open Internet" currently do not apply equally to fixed and mobile providers. *In re:* Preserving the Open Internet; Broadband Industry Practices, *Report and Order*, GN Docket No. 09-191; WC Docket No. 07-52, FCC 10-201 (Dec. 23, 2010). All "open Internet" standards applying to fixed broadband must also govern mobile broadband service provision to the extent mobile broadband supplants the fixed provider as the CAF-supported broadband service provider in order to avoid creating regulatory preferences for differing technologies.

[71] *Id.* at 150 ("The FCC should consider alternative approaches, such as satellite broadband, for addressing the most costly areas of the country to minimize the contribution burden on consumers across America.")

direct competitor to wireline broadband,[72] it would be unfair to hold it to a lesser standard simply because of its mobile attribute.[73]

While the Commission seeks comment on a number of broadband service characteristics beyond the speed of download/upload,[74] it is premature to fully develop these at this time. As the *NPRM* acknowledges, the Commission is engaged in a separate but complimentary project to measure actual consumer broadband speeds, and to provide "recommendations on definitions of actual speed, key performance metrics and measurement points associated with those metrics."[75] As an active participant in this project, Frontier urges the Commission to await the results before deciding additional performance metrics beyond speed thresholds.

While the Commission reviews other broadband metrics, it should focus its service standards on speed of service. The Commission decided in its *Sixth Broadband Deployment Report* to redefine broadband service as that with speeds of 4 Mbps download and 1 Mbps upload ("4/1 threshold").[76] These are aligned with Frontier's own broadband deployment commitments,[77] and Frontier supports adoption of this speed threshold as the proper broadband service characteristics for purposes of universal service-supported broadband. As an initial matter, the factors that led to the Commission deciding upon the 4/1 threshold have not changed materially since the Commission reached that conclusion in July 2010, so revision is not yet

[72] See letter from Michael D. Saperstein, Jr., Frontier Communications, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 09-191; WC Docket No. 07-52 (filed Dec. 15, 2010) (providing examples of mobile broadband offering their services as direct competitors to wireline broadband.).

[73] *NPRM* at ¶ 114 ("Are there other metrics we should consider that are unrelated to speed or service quality, such as mobility?").

[74] *Id.* at ¶ 105 ("Commenters should discuss additional ways of measuring the broadband services provided to consumers, such as throughput, latency, jitter, or packet loss, for purposes of establishing performance requirements for universal service funding.").

[75] *Id.* at ¶ 115.

[76] *Sixth Broadband Deployment Report* at ¶11.

[77] *See supra* n.5 and accompanying text.

warranted. Also, the Commission has based its premise of the amount of Americans that are currently "unserved" on the 4/1 threshold, so utilizing a different threshold at this point would lead to fundamental questions about what the Commission seeks to achieve.

Though the 4/1 threshold is an appropriate standard for universal service-funded broadband deployment in the near term, Frontier agrees with the Commission's proposal that because "broadband performance is constantly evolving," the "broadband metrics we adopt for purposes of universal service funding should evolve as well."[78] Frontier believes that five years is the appropriate transition period for the initial reform effort, so it would be logical to reevaluate the broadband performance thresholds at that time as well. The Commission should not prejudge the evolution of technology any more so than the future state of the communications industry once access charges are reduced.

D. The Current ETC Designations are an Effective Method of Determining Funding Recipients

Once the Commission has established what levels of services it seeks from CAF recipients, it must determine how it will choose the carriers best situated to provide that service; utilizing the existing ETC program will help it do so efficiently. The *NPRM* notes that "states have the responsibility for designating ETCs within their states, except in those cases where they lack jurisdiction."[79] Given that the Commission is "mindful of the longstanding federal-state partnership for universal service,"[80] and that "individual states and territories play an important

[78] *NPRM* at ¶ 119.

[79] *Id.* at ¶ 88.

[80] *Id.* at ¶ 84.

role in accomplishing universal service goals,"[81] it is logical for states to retain the power of designating ETCs since the process is already in place.

States are in the best position to know what services are necessary to serve their unique territories, as evidenced by their current position of determining COLR obligations—obligations which will continue for CAF recipients. Further, many carriers have existing familiarity with the states' current ETC designation process. Given the numerous changes involved with transitioning the current USF to the CAF for broadband deployment, retaining the state ETC certification process will add a layer of stability during the Commission's planned changes. State oversight of ETCs also provides an effective measure of assuring that ETCs are meeting their CAF-related obligations, including quality of service of both voice and broadband services, as states are closest to the services provided. Additionally, states also serve as the most effective point of consumer contact for questions about the ETC-provided local services. There is no need to recreate the entire ETC-designation process simply because the Commission adds broadband as a supported service.

[81] *Id.* at ¶ 85.

V. CONCLUSION

For the foregoing reasons Frontier respectfully requests the Commission to modify its intercarrier compensation and universal service reform plans as set forth above to best ensure effective rural broadband deployment.

Respectfully submitted,

Frontier Communications Corporation

By:
/s/
Michael D. Saperstein, Jr.
Director of Federal Regulatory Affairs
Frontier Communications Corporation
2300 N St. NW, Suite 710
Washington, DC 20037
Telephone: (203) 614-4702

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